IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4333 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KODINAR TALUKA SARVODAYA MANDAL LTD.

Versus

STATE OF GUJARAT

Appearance:

MR PS CHAMPANERI for Petitioner

MS SONAL VYAS, AGP for Respondent No. 1

MR HEMANG RAVAL for MR AD OZA, GP for Respondent No. 2

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 25/07/2002

ORAL JUDGEMENT

#. Rule. Ms.Sonal Vyas, learned AGP waives service of notice of rule for the respondent No.1-State of Gujarat and Mr.Hemang Raval for Mr.A.D.Oza, learned GP waives service of notice of rule for the respondent No.2 - The

Secondary Education Board.

#. At the joint request of learned advocates for the parties, the matter is heard and finally disposed of by this order.

#. The petitioner - Trust has challenged in this writ petition the impugned order dated 29th June, 2000 passed by the respondent No.2 - Board and the impugned order at Annexure-F dated 1st September, 2000 passed by the State Government dismissing the appeal filed by the petitioner against the impugned order at Annexure-G.

#. On four grounds mentioned in the impugned order at Annexure-D, an application submitted by the petitioner was rejected. Against which, an appeal was filed. At the time of hearing of an appeal Shri Dayanand Jani representatives of the petitioner Trust has personally remained present before the Appellate Authority. On being asked about the bank balance, it has stated that the petitioner - Trust had Rs.98,000-00 [Rs.Ninty Eight Thousand Only] as bank balance and the population of village Viththalpur, where school was proposed, was of 2200 and at the distance of 6 to 7 k.m. there is already Secondary Education School at village Alidar and NOC is given to them. Regarding the school building, it was stated that there were only two rooms admeasuring 17 X 22 sq.ft and 18 X 14 sq.ft. and it is a rented premises. There is a plot hardly 32 sq.ft. for sports. The Appellate Authority considered all these things and dismissed the appeal mainly on two grounds i.e. population of village Viththalpur and availability of enough rooms in the school.

#. Mr.P.S.Champaneri, learned advocate for the petitioner has submitted that the respondent No.2 - Board has rejected the application of the petitioner on four grounds, but the Appellate Authority has dismissed the appeal only on two grounds. He has further submitted that inadvertently some incorrect informations were supplied by Shri Jani, representatives of the petitioner - Trust before the Appellate Authority regarding the availability of the rooms and its size. Therefore, physical inspection be ordered because in the application form, the applicant clearly stated that they have rooms admeasuring 25 X 25 sq.ft. I am afraid, this submission of Mr.Champaneri cannot be accepted. It is true that the Board rejected the application not on four grounds but only on two grounds. But in my considered opinion, both the grounds were more than sufficient to reject the application and dismiss the appeal. At this juncture, in

absence of any submission made in the petition that inadvertently some incorrect informations were supplied by Mr.Jani, representative of the petitioner Trust, before the appellate authority, the statement made before the appellate authority by Mr.Jani has to be accepted. When two authorities below have given cogent reasons for rejecting the application and dismissing the appeal of the petitioner, then this Court would not interfere with such orders in its writ jurisdiction. It may be stated that under Article 227 of the Constitution of India, the scope is very narrow and limited. In absence of error of facts and law committed by the authorities, I am not inclined to interfere with the impugned order passed by the appellate authority. Reply affidavit makes things clear that the petitioner has no case.

#. In view of the above discussions, this petition fails and the same is accordingly dismissed.

[B. J. SHETHNA, J.]

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